



STATE OF CONNECTICUT  
JUDICIAL BRANCH

CHAMBERS OF  
BARBARA M. QUINN, JUDGE  
CHIEF COURT ADMINISTRATOR

231 CAPITOL AVENUE  
HARTFORD, CT 06106

Judiciary Committee Public Hearing  
March 21, 2011

Testimony of the Honorable Barbara M. Quinn  
Chief Court Administrator

**House Bill 6605, *An Act Requiring Attorneys to Maintain Professional Liability Insurance***  
**Senate Bill 1159, *An Act Concerning Court Actions Filed by Inmates***  
**Senate Bill 1183, *An Act Concerning Inmate Requests for Public Records***

Good morning, Senator Coleman, Representative Fox, Senator Doyle, Representative Holder-Winfield, Senator Kissel, Representative Hetherington and members of the Judiciary Committee. I appear before you today to address three bills on your agenda: House Bill 6605, *An Act Requiring Attorneys to Maintain Professional Liability Insurance*, Senate Bill 1159, *An Act Concerning Court Actions Filed by Inmates*, and Senate Bill 1183, *An Act Concerning Inmate Requests for Public Records*. The Judicial Branch has serious concerns about these bills because all three would impose significant new duties upon the Judicial Branch that cannot be absorbed within our current resources.

**House Bill 6605, *An Act Requiring Attorneys to Maintain Professional Liability Insurance***

While we understand the motivation for this proposal, for both policy and practical reasons the Judicial Branch must oppose it.

Section 1 would require all attorneys admitted to practice in Connecticut to maintain professional liability insurance with policy limits of at least a million dollars per occurrence and three million dollars aggregate. As many of you are aware, the regulation of attorneys and the practice of law falls under the purview of the Judicial Branch. This responsibility is carried out through the Rules of Professional Conduct, which are adopted by the Rules Committee and published in the Connecticut Practice Book. Any imposition of requirement for liability

insurance should be considered by the Rules Committee for possible inclusion in the Rules of Professional Conduct.

The Judicial Branch also has practical concerns with this proposal, as it would add a significant amount of work to two Judicial Branch units that are currently operating below their normal staffing levels. We estimate that these additional responsibilities would require, at a minimum, three additional staff persons. Section 1 would require the Statewide Grievance Committee to monitor and enforce the proposed liability insurance requirement for the 37,470 attorneys who are admitted to practice in Connecticut. Section 2 would require the Client Security Fund to be used for loans to attorneys who are unable to afford the mandated coverage. This would be a new function for the Judicial Branch, and it is one that I do not believe the Branch should assume. Indeed, a requirement that our office of Victim Services provide loans to victims was repealed at our request during the 2010 legislative session. These additional responsibilities simply could not be absorbed within existing resources.

Finally, I must point out that allowing the client security fund, which is funded entirely by an annual assessment against all attorneys and judges in Connecticut, to be used for loans would negatively impact the victims of attorneys' misconduct. It would have the direct result of reducing the amount available to compensate these victims, which is the sole purpose of the fund at this time.

***Senate Bill 1159, An Act Concerning Court Actions Filed by Inmates***

***Senate Bill 1183, An Act Concerning Inmate Requests for Public Records***

These proposals seek to reduce the costs of prisoner Freedom of Information requests and litigation by making the Judicial Branch a gatekeeper for these matters. While I understand the problem that the proponents are seeking to address, I do not believe that the Judicial Branch should be put into that role.

***Senate Bill 1159, An Act Concerning Court Actions Filed by Inmates***, would permit the court to "institute an investigation into the financial status of an inmate as the circumstances warrant." This would be a new role for the courts, which do not initiate investigations except in the extraordinary circumstance that an investigatory grand jury is convened. It is unclear who would conduct such an investigation; if passed, this would certainly require Judicial Branch employees to spend considerable time gathering and reviewing the information referenced in the proposal.

The bill also requires that the court not grant a fee waiver to inmates who have had three or more previous complaints or appeals dismissed by a state or federal court on the grounds that they were frivolous or malicious or failed to state a claim upon which relief may be granted. This would require the court to investigate all requests from inmates for fee waivers.

I will acknowledge that there are litigants, including inmates, who engage in frivolous and repetitive court actions, and that these actions are burdensome and costly for everyone involved. I would respectfully suggest that an alternative way to address this issue would be to amend C.G.S. section 52-259b to provide the court with explicit authority to dismiss court actions filed by prisoners on the grounds that they are frivolous and malicious. Although this would be after the case is filed and the fees waived, it would be an effective way to begin to address this problem.

Senate Bill 1183, *An Act Concerning Inmate Requests for Public Records*, would require Judge Trial Referees to, essentially, approve all FOIA requests by inmates. They would have to review each request to determine if there are reasonable grounds for the request. This would impose what I believe will be a significant burden on our Judge Trial Referees, one that the Judicial Branch can ill afford at this time. Judge Trial Referees play an important role in the Branch's operations, hearing cases each and every day in our courts, and diverting them to other tasks takes away from the time they can spend on cases. I would point out that current law requires me to designate a number of Judge Trial Referees to make probable cause determinations for the Office of State Ethics. Under that statute, the Office of State Ethics reimburses the Judicial Branch for the time they spend on such matters. The proposal before you does not provide for any such reimbursement. My main concern, however, is imposing more duties that are really outside the Judicial Branch's purview on our Judge Trial Referees.

I will conclude by stating that the Judicial Branch is willing to work with the proponents of these bills on alternative solutions to the problems they seek to address. However, I must reiterate that we cannot assume the additional duties they impose within our current austere resources.

Thank you for your consideration.

